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7                   UNITED STATES DISTRICT COURT  
8                   WESTERN DISTRICT OF WASHINGTON  
9                   AT SEATTLE

10                  BRYCE L. SPANGLER,

11                  Plaintiff,

12                  v.

13                  CHARLIE WEND, *et al.*,

14                  Defendants.

15                  Case No. C12-1196-RAJ-JPD

16                  REPORT AND  
17                  RECOMMENDATION RE:  
18                  DEFENDANTS' HECK-BASED  
19                  MOTION TO DISMISS AND OTHER  
20                  MOTIONS

21                  **I. BACKGROUND AND SUMMARY**

22         In his original 42 U.S.C § 1983 complaint, *pro se* plaintiff Bryce L. Spangler alleged  
23         constitutional violations of (1) his First Amendment right to access books and magazines;  
24         (2) his Fourteenth Amendment right as a pretrial detainee to conditions of confinement that do  
25         not constitute punishment; and (3) his First and Fourteenth Amendment right to access the  
26         courts to represent himself in a criminal manner. (Dkt. 8.) Defendants Chief Charlie Wend,  
27         Sergeants Brian Schraeder and Juanita O'Neil, and Corrections Officer Todd Hienz are  
28         employees of Skagit County Jail, where Mr. Spangler was detained prior to his guilty-plea  
29         conviction and subsequent incarceration in state prison.

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The parties bring a number of motions. The Court recommends **(1) GRANTING IN-PART** and **DENYING IN-PART** defendants' motion to dismiss on the basis of *Heck v. Humphrey*, 512 U.S. 477 (1994), because only Mr. Spangler's access-to-the-courts claim is *Heck*-barred (**Dkt. 15**); **(2) GRANTING** defendants' motion to stay discovery pending resolution of an impending motion to dismiss on the basis of qualified immunity (**Dkt. 29**); **(3) DENYING** as moot plaintiff's motion to compel discovery (**Dkt. 38**); **(4) GRANTING** plaintiff's motion to amend to omit the *Heck*-barred access-to-the-courts claim (**Dkt. 33**); and **(5) DENYING** plaintiff's motion for a preliminary injunction as moot and for absence of authority as a *pro se* litigant to raise the claims of others (**Dkt. 37**). The Clerk should be **DIRECTED** to file the document located at **Docket 33-1** as the amended complaint.

## II. DISCUSSION

**A. Defendants' Motion to Dismiss All Claims as *Heck*-Barred (Dkt. 15)**

Defendants argue that all of Mr. Spangler’s claims should be dismissed as *Heck*-barred because they stem from a single set of facts: harsh conditions at Skagit County Jail unconstitutionally limited Mr. Spangler’s access to the courts and therefore rendered involuntary his self-represented guilty plea to criminal charges. (Dkt. 15.) Although the Court finds that Mr. Spangler’s access-to-the-courts claim is *Heck*-barred, the same does not hold true for the other claims.

In *Heck*, the United States Supreme Court held:

[W]hen a state prisoner seeks damages in a § 1983 suit, the district court must consider whether a judgment in favor of the plaintiff would *necessarily* imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated.

*Heck*, 512 U.S. at 487 (emphasis added).

As Mr. Spangler appears to acknowledge in his response to the motion to dismiss (Dkt. 32) and motion to amend (Dkt. 33), *Heck* bars consideration of his access-to-the-courts claim.

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1 In his original complaint, Mr. Spangler argued that Skagit County Jail conditions were so harsh  
 2 and restrictive that “I gave up & took 5 years for some things [I]’m not guilty of.” (Dkt. 8, at  
 3 7.) A decision in Mr. Spangler’s favor on any claim that he was unable to adequately prepare a  
 4 defense to his criminal charges because of the conditions of his confinement in the segregation  
 5 unit, or because of defendants’ failure to provide him with less-restrictive library access, would  
 6 necessarily call into the question the voluntary nature of Mr. Spangler’s guilty plea and the  
 7 lawfulness of his conviction. *See Lopez v. Skagit County*, 2010 WL 771932 (W.D. Wash. Mar.  
 8 2, 2010), *aff’d*, 2011 WL 3585611 (9th Cir. Aug. 16, 2011); *see also Pineda v Nevada Dep’t of*  
 9 *Prisons*, 211 WL 5907441 (9th Cir. Nov. 28, 2011) (“The district court properly granted  
 10 summary judgment on Pineda’s access-to-courts and access-to-counsel claims because the  
 11 success of these claims would necessarily imply the invalidity of Pineda’s conviction or  
 12 sentence, which have not been previously invalidated.”). As nothing in the record suggests  
 13 that his conviction has been invalidated, Mr. Spangler’s access-to-the-courts claim has not yet  
 14 accrued and is not cognizable in this proceeding.

15 The success of Mr. Spangler’s other claims—alleged violations of his rights to access  
 16 books and magazines and to be free from conditions of confinement that amount to  
 17 “punishment”—would *not*, however, necessarily imply the invalidity of Mr. Spangler’s  
 18 conviction and are therefore *not Heck-barred*. First, “[i]t is well settled that the First  
 19 Amendment protects the flow of information to prisoners; any limitation must reasonably  
 20 relate to a legitimate penological interest.” *See Crofton v. Roe*, 170 F.3d 957, 959 (9th Cir.  
 21 1999). The Court cannot discern, and defendants do not describe, why Mr. Spangler’s  
 22 freestanding claim regarding his claimed violation of his First Amendment right to books and  
 23 magazines is *Heck-barred*. Second, “[n]othing in . . . *Heck* [and its related cases] holds that  
 24 prisoners challenging the conditions of their confinement are automatically barred from  
 25 bringing suit under § 1983 without first obtaining a writ of habeas corpus.” *Ramirez v. Galaza*,

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1 334 F.3d 850, 856 (9th Cir. 2003). The Court declines defendants' invitation to apply the  
2 *Heck*-bar to any allegations of prison conditions so harsh as to render self-representation  
3 impossible. To find otherwise would be to immunize atypical and significant prison hardships  
4 entirely because their extreme nature might also eviscerate other rights traditionally addressed  
5 in habeas proceedings.

6 The Court recommends granting in-part defendants' *Heck*-based motion to dismiss and  
7 dismissing without prejudice Mr. Spangler's access-to-the-courts claim. (Dkt. 15.) The Court  
8 recommends denying defendants' *Heck*-based motion to dismiss Mr. Spangler's other claims.

9 **B. Defendants' Motion to Stay Discovery (Dkt. 29)**

10 Defendants move to stay responding to Mr. Spangler's request for documents and  
11 admissions because if their *Heck*-based motion to dismiss is denied they will move to dismiss  
12 on the basis of qualified immunity. (Dkt. 29.) Defendants argue that until their motion on  
13 qualified immunity is resolved, discovery is not warranted. *See Harlow v. Fitzgerald*, 457 U.S.  
14 800, 818–19 (1982) (“Until this threshold immunity question is resolved, discovery should not  
15 be allowed.”). Defendants also note that they provided Mr. Spangler with relevant discovery  
16 in the form of Mr. Spangler's Jail Log, which was attached to defendants' opposition to a  
17 motion to appoint counsel. (*See* Dkt. 20-1.)

18 The Court agrees with defendants and recommends granting defendants' motion to stay  
19 discovery until the question of qualified immunity is fully resolved. (Dkt. 29.)

20 **C. Plaintiff's Motion to Compel Discovery (Dkt. 38)**

21 The Court recommends denying as moot Mr. Spangler's motion to compel discovery.  
22 (Dkt. 38.) He may renew this motion if defendants are denied qualified immunity and have  
23 refused to provide documents or admissions.

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**D. Plaintiff's Motion to Amend the Complaint (Dkt. 33)**

For the reasons set forth earlier, the Court recommends granting Mr. Spangler's motion to amend his complaint to omit the access-to-the-courts claim. (Dkt. 33.) The Clerk should be directed to file the document located at Docket 33-1 as the amended complaint.

**E. Plaintiff's Motion for a Preliminary Injunction (Dkt. 37)**

The Court recommends denying plaintiff's motion for a preliminary injunction to force Skagit County Jail to permit books and magazines to those in segregation and to alter the conditions of confinement. The motion is moot because Mr. Spangler was transferred out of Skagit County Jail before he filed his present complaint. Moreover, Mr. Spangler has not named Skagit County Jail as a defendant and has no authority as a *pro se* litigant raise claims on behalf of others than himself. *See C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir. 1987).

### III. CONCLUSION

The Court recommends **(1) GRANTING IN-PART** and **DENYING IN-PART** defendants' *Heck*-based motion to dismiss this matter and dismissing only Mr. Spangler's access-to-the-courts claim without prejudice as *Heck*-barred (**Dkt. 15**); **(2) GRANTING** defendants' motion to stay discovery pending resolution of an impending motion to dismiss on the basis of qualified immunity (**Dkt. 29**); **(3) DENYING** plaintiff's motion to compel discovery (**Dkt. 38**); **(4) GRANTING** plaintiff's motion to amend to omit the *Heck*-barred, access-to-the-courts claim (**Dkt. 33**); and **(5) DENYING** plaintiff's motion for a preliminary

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1 injunction as moot and for absence of authority as a *pro se* litigant to raise the claims of others  
2 (**Dkt. 37**). The Clerk should be **DIRECTED** to file the document located at **Docket 33-1** as  
3 the amended complaint.

4 DATED this 22nd day of January, 2013.

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6 JAMES P. DONOHUE  
7 United States Magistrate Judge

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